Adopted Rejected

## **COMMITTEE REPORT**

YES: 11 NO: 0

## MR. SPEAKER:

1

Your Committee on <u>Environmental Affairs</u>, to which was referred <u>House Bill</u>

1280 , has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new

- paragraph and insert:
  "SECTION 1. IC 13-26-5-2 IS AMENDED TO READ AS
  FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A district may
  do the following:
  (1) Sue or be sued.
- 7 (2) Make contracts in the exercise of the rights, powers, and duties
- 8 conferred upon the district.
- 9 (3) Adopt and alter a seal and use the seal by causing the seal to 10 be impressed, affixed, reproduced, or otherwise used. However,
- the failure to affix a seal does not affect the validity of an instrument.
- 13 (4) Adopt, amend, and repeal the following:
- 14 (A) Bylaws for the administration of the district's affairs.
- (B) Rules and regulations for the following:

1	(i) The control of the administration and operation of the
2	district's service and facilities.
3	(ii) The exercise of all of the district's rights of ownership.
4	(5) Construct, acquire, lease, operate, or manage works and obtain
5	rights, easements, licenses, money, contracts, accounts, liens,
6	books, records, maps, or other property, whether real, personal, or
7	mixed, of a person or an eligible entity.
8	(6) Assume in whole or in part any liability or obligation of:
9	(A) a person;
10	(B) a nonprofit water, sewage, or solid waste project system;
11	or
12	(C) an eligible entity;
13	including a pledge of part or all of the net revenues of a works to
14	the debt service on outstanding bonds of an entity in whole or in
15	part in the district and including a right on the part of the district
16	to indemnify and protect a contracting party from loss or liability
17	by reason of the failure of the district to perform an agreement
18	assumed by the district or to act or discharge an obligation.
19	(7) Fix, alter, charge, and collect reasonable rates and other
20	charges in the area served by the district's facilities to every
21	person whose premises are, whether directly or indirectly,
22	supplied with water or provided with sewage or solid waste
23	services by the facilities for the purpose of providing for the
24	following:
25	(A) The payment of the expenses of the district.
26	(B) The construction, acquisition, improvement, extension,
27	repair, maintenance, and operation of the district's facilities and
28	properties.
29	(C) The payment of principal or interest on the district's
30	obligations.
31	(D) To fulfill the terms of agreements made with:
32	(i) the purchasers or holders of any obligations; or
33	(ii) a person or an eligible entity.
34	(8) Except as provided in section 2.5 of this chapter, require
35	connection to the district's sewer system of property producing
36	sewage or similar waste and require the discontinuance of use of
37	privies, cesspools, septic tanks, and similar structures if:
38	(A) there is an available sanitary sewer within three hundred

1	(300) feet of the property line; and
2	(B) the district has given written notice by certified mail to the
3	property owner at the address of the property at least ninety
4	(90) days before a date for connection to be stated in the
5	notice.
6	However, a district may not require a property owner to
7	connect to the district's sewer system if the property owner is
8	already connected to a sewer system that was approved by a
9	state governmental entity.
0	(9) Provide by ordinance for reasonable penalties for failure to
1	connect and also apply to the circuit or superior court of the
2	county in which the property is located for an order to force
3	connection, with the cost of the action, including reasonable
4	attorney's fees of the district, to be assessed by the court against
5	the property owner in the action.
6	(10) Refuse the services of the district's facilities if the rates or
7	other charges are not paid by the user.
8	(11) Control and supervise all property, works, easements
9	licenses, money, contracts, accounts, liens, books, records, maps,
20	or other property rights and interests conveyed, delivered
21	transferred, or assigned to the district.
.2	(12) Construct, acquire by purchase or otherwise, operate, lease
23	preserve, and maintain works considered necessary to accomplish
24	the purposes of the district's establishment within or outside the
2.5	district and enter into contracts for the operation of works owned
26	leased, or held by another entity, whether public or private.
27	(13) Hold, encumber, control, acquire by donation, purchase, or
28	condemnation, construct, own, lease as lessee or lessor, use, and
29	sell interests in real and personal property or franchises within or
0	outside the district for:
1	(A) the location or protection of works;
2	(B) the relocation of buildings, structures, and improvements
3	situated on land required by the district or for any other
4	necessary purpose; or
55	(C) obtaining or storing material to be used in constructing and
66	maintaining the works.
57	(14) Upon consent of two-thirds (2/3) of the members of the
8	board merge or combine with another district into a single district

1	on terms so that the surviving district:
2	(A) is possessed of all rights, franchises, and authority of the
3	constituent districts; and
4	(B) is subject to all the liabilities, obligations, and duties of
5	each of the constituent districts, with all rights of creditors of
6	the constituent districts being preserved unimpaired.
7	(15) Provide by agreement with another eligible entity for the
8	joint construction of works the district is authorized to construct
9	if the construction is for the district's own benefit and that of the
10	other entity. For this purpose the cooperating entities may jointly
11	appropriate land either within or outside their respective borders
12	if all subsequent proceedings, actions, powers, liabilities, rights,
13	and duties are those set forth by statute.
14	(16) Enter into contracts with a person, an eligible entity, the state,
15	or the United States to provide services to the contracting party for
16	any of the following:
17	(A) The distribution or purification of water.
18	(B) The collection or treatment of sanitary sewage.
19	(C) The collection, disposal, or recovery of solid waste.
20	(17) Make provision for, contract for, or sell the district's
21	byproducts or waste.
22	(18) Exercise the power of eminent domain.
23	(19) Remove or change the location of a fence, building, railroad,
24	canal, or other structure or improvement located within or outside
25	the district. If:
26	(A) it is not feasible or economical to move the building,
27	structure, or improvement situated in or upon land acquired;
28	and
29	(B) the cost is determined by the board to be less than that of
30	purchase or condemnation;
31	the district may acquire land and construct, acquire, or install
32	buildings, structures, or improvements similar in purpose to be
33	exchanged for the buildings, structures, or improvements under
34	contracts entered into between the owner and the district.
35	(20) Employ consulting engineers, superintendents, managers, and
36	other engineering, construction, and accounting experts, attorneys,
37	bond counsel, employees, and agents that are necessary for the
38	accomplishment of the district's purpose and fix their

1	compensation.
2	(21) Procure insurance against loss to the district by reason of
3	damages to the district's properties, works, or improvements
4	resulting from fire, theft, accident, or other casualty or because of
5	the liability of the district for damages to persons or property
6	occurring in the operations of the district's works and
7	improvements or the conduct of the district's activities.
8	(22) Exercise the powers of the district without obtaining the
9	consent of other eligible entities. However, the district shall:
10	(A) restore or repair all public or private property damaged in
11	carrying out the powers of the district and place the property
12	in the property's original condition as nearly as practicable; or
13	(B) pay adequate compensation for the property.
14	(23) Dispose of, by public or private sale or lease, real or personal
15	property determined by the board to be no longer necessary or
16	needed for the operation or purposes of the district.".
17	Page 1, line 16, strike "This subsection applies only to a district in
18	which a campground".
19	Page 1, strike line 17.
20	Page 2, line 1, strike "against a board concerning sewage service
21	billed at a flat rate.".
22	Page 2, line 6, after "sewers" insert ".".
23	Page 2, line 6, strike "for one (1) year.".
24	Page 2, line 6, delete "For a calendar".
25	Page 2, line 7, delete "year beginning after December 31, 2004, the"
26	and insert "The".
27	Page 2, line 7, strike "highest".
28	Page 2, line 7, delete "monthly".
29	Page 2, line 7, strike "meter".
30	Page 2, line 8, strike "reading".
31	Page 2, line 8, strike "for the campground during the year shall".
32	Page 2, strike line 9.
33	Page 2, line 9, after "campground." insert "If a campground elects
34	to be billed by use of a meter, the rate charged by a board for the
35	metered sewage service may not exceed the rate charged to
36	residential customers for equivalent usage.
37	(c) If a campground does not install a meter under subsection
38	(b) and is billed for sewage service at a flat rate under subsection

1	(a), for a calendar year beginning after December 31, 2004, each
2	camp site at a campground may not equal more than one-third
3	(1/3) of one (1) resident equivalent unit.".
4	Page 2, line 12, before "The" begin a new paragraph and insert:
5	"( <b>d</b> )".
6	Page 2, line 13, strike "this".
7	Page 2, line 14, strike "subsection" and insert "subsections (b) and
8	(c)".
9	Page 2, line 21, strike "excessive" and insert "concentrations of".
10	Page 2, line 21, delete "." and insert "that exceed federal pollutant
11	standards.".
12	Page 2, delete lines 22 through 42, begin a new paragraph and insert:
13	"SECTION 3. IC 13-26-11-2.1 IS ADDED TO THE INDIANA
14	CODE AS A NEW SECTION TO READ AS FOLLOWS
15	[EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2.1. (a) As
16	used in this section, "commission" refers to the Indiana utility
17	regulatory commission created by IC 8-1-1-2.
18	(b) This section applies to an owner or operator of a
19	campground described in section 2(b) or 2(c) of this chapter who
20	disputes:
21	(1) that the campground is being billed at rates charged to
22	residential customers for equivalent usage as described in
23	section 2(b) of this chapter;
24	(2) the number of resident equivalent units determined for the
25	campground under section 2(c) of this chapter; or
26	(3) that any additional charges imposed on the campground
27	under section 2(d) of this chapter are reasonable or
28	nondiscriminatory.
29	(c) If an owner or operator:
30	(1) makes a good faith attempt to resolve a disputed matter
31	described in subsection (b)(1) through (b)(3) through:
32	(A) any grievance or complaint procedure prescribed by
33	the board; or
34	(B) other negotiations with the board; and
35	(2) is dissatisfied with the board's proposed disposition of the
36	matter;
37	the owner or operator may file with the commission a written
2 0	request for review of the disputed matter and the heard's proposed

disposition of the matter to be conducted by the commission's appeals division established in IC 8-1-2-34.5(b). The owner or operator shall file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

- (d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.
- (e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.
- (f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:
  - (1) the owner or operator of the campground; and
- **(2) the board**;

- by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.
- (g) The commission shall maintain a record of all requests for a review made under this section. The record must include:
- (1) a copy of the appeal division's and commission's decision

1	under subsection (f) for each dispute filed; and
2	(2) any other documents filed with the appeals division or
3	commission under this section.
4	The record must be made available for public inspection and
5	copying in the office of the commission during regular business
6	hours under IC 5-14-3.
7	(h) The right of a campground owner or operator to request a
8	review under this section is in addition to the right of the
9	campground owner or operator to file a petition under section 15
10	of this chapter as a freeholder of the district.
11	(i) The commission may adopt rules under IC 4-22-2 to
12	implement this section.".
13	Delete page 3.
14	Page 4, delete lines 1 through 11.
15	Renumber all SECTIONS consecutively.
	(Reference is to HB 1280 as introduced.)

and when so amended that said bill do pass.

Representative Wolkins